

THE STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

RECEIVED
FEB 10 2023

SC Court of Appeals

APPEAL FROM THE MASTER IN EQUITY
BEAUFORT COUNTY
MARVIN S. DUKES, III, MASTER

2021-001539

LINDA AMMONS

RESPONDENT

VERSUS

ORMONDO LEOMBRUNO

APPELLANT

BRIEF OF APPELLANT

J. Thomas Mikell, Esquire
P.O. Box 1727
Beaufort, SC 29901
843-524-2110
Attorney for the Appellant

Linda Ammons
113 Lyford Place
Beaufort, SC 29902
The Respondent

INDEX

<u>DOCUMENT</u>	<u>PAGE</u>
1. Article VII Declaration of Covenants.	1
2. Subdivision plat – Plat Book 115 at Page 98.	2
3. Complaint of May 2018 by Ammons.	3-8
4. Order by Magistrate of May 22, 2018 (Filed 05/30/2018).	9-11
5. Rule to Show Cause by Leombruno of May 28, 2019.	12-14
6. Answer by Ammons to Rule to Show Cause – None *	
7. Motion by Leombruno of November 13, 2019, for a Written Decision from the June 17, 2019 trial.	15-16
8. Order of Contempt of November 14, 2019 from the Trial Decision of June 17, 2019.	17-18
9. Notice of Appeal of December 17, 2019, by Ammons from the Decision of June 17, 2019.	19
10. Second Rule to Show Cause by Leombruno of October 9, 2019.	20
11. Answer by Ammons to Second Rule to Show Cause – None *	
12. Motion by Ammons to Consolidate with a separate case in Common Pleas.	21-22
13. Return to Motion to Consolidate and Granting Motion To View Site.	23-25
14. Motion by Leombruno to View Site.	26
15. Order Denying Motion to Consolidate and Granting Motion To View Site.	27-28
16. Corrected Order from the Trial of November 19, 2019.	29-33

<u>DOCUMENT</u>	<u>PAGE</u>
17. Confirmation of payment of fine by Ammons from Order of November 14, 2019.	34
18. Notice of Appeal by Ammons from the Decision of November 14, 2019.	35
19. Return/Transcript by Magistrate of the June 17, 2019 trial.	36-38
20. Return/Transcript by Magistrate of the November 14, 2019 trial.	39-42
21. Motion for Summary Judgment by Leombruno.	43-46
22. Response to Motion for Summary Judgment by Ammons (Statement of Grounds for Appeal).	47
23. Return to Response by Leombruno.	48-50
24. Supplemental Return by Leombruno.	51-53
25. Memorandum/Brief by Ammons on Summary Judgment Motion.	54-56
26. Order Dismissing Summary Judgment Motion and Granting Appeal	57-58
27. Motion for Reconsideration by Leombruno.	59-60
28. Denial of Motion for Reconsideration.	61-63

* A review of the files of the Clerk of Court of Magistrate's Court and Common Pleas revealed no written Answer/Return/Response to either of the two Rules to Show Cause. Some of the events and documents in this entire proceeding were prepared and conducted by the parties without attorneys so the documentation either did not take place or cannot be found.

ARTICLE VII - GENERAL COVENANTS AND RESTRICTIONS FOR ALL LOTS

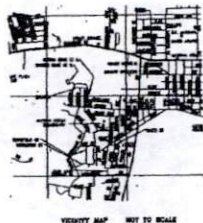
All OWNERS, their family members, invitees and tenants are on NOTICE that this project is contained within a small area (2.911 acres), that the eleven LOTS are

-24-

Book2268/Page1428

small (from 4,169 square feet to 9,738 square feet), and that there is a small distance between buildings (approximately 30 feet). Therefore, the restrictions and living conditions within this project can not be the same as they would be in a subdivision of large single family lots where buildings are much farther apart. The BOARD and ACC will have to make decisions about various and sundry issues between the OWNERS and such decisions should be guided by this concept.

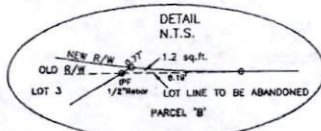
To implement the plan of ownership and use of the LOTS desired by the DECLARANT, to preserve the character of the development, and to make possible the fulfillment of cooperative effort intended by the OWNERS through their purchase of a LOT, the DECLARANT and all Grantees thereof and all future OWNERS of LOTS agree to the following, to wit:



VELOCITY MAP NOT TO SCALE



ADDRESSES PROVIDED BY
BEAUFORT COUNTY GIS/E-911:
LOT 1 - 111 LYFORD PLACE
LOT 2 - 113 LYFORD PLACE
LOT 3 - 108 LYFORD PLACE
LOT 4 - 110 LYFORD PLACE
LOT 5 - 112 LYFORD PLACE
LOT 6 - 114 LYFORD PLACE
LOT 7 - 116 LYFORD PLACE
LOT 8 - 118 LYFORD PLACE
LOT 9 - 120 LYFORD PLACE
LOT 10 - 122 LYFORD PLACE
LOT 11 - 124 LYFORD PLACE



THE SAME BEING LOTS 1 THRU 11, 'A' THRU 'F', A 20' STRIP ADJOINING LOTS 1 & 2
AND A PORTION OF THE J.W. LOGAN PROPERTY, AS SHOWN ON A PLAT BY A. O.
CHRISTENSEN, DATED JANUARY, 1942, REVISED APRIL, 1947 AND RECORDED IN THE OFFICE
OF THE CLERK OF COURT FOR BEAUFORT COUNTY, SOUTH CAROLINA IN PLAT BOOK 6,
PAGE 72.

THIS PROPERTY IS LOCATED IN ZONE 'C' AS DETERMINED BY FEMA, FIRM
COMMUNITY-PANEL NUMBER 450026 0005 D, DATED 9/29/86.

PIN: R120-003-000-0807-0000
PIN: R120-003-000-0808-0000
PIN: R120-003-000-0811-0000

0 30' 60' 120' 180'

SCALE 1" = 60'
APRIL 26, 2004

P108548/JMM

REVISED 10-8-04 - ADDED LOT 9 ACCESS
TO STUART ST. AND REMOVED OLD LINES.
REVISED 2-17-05 - ADDED B.W.S.A. ESENT. &
ADDRESSES
REVISED 4-12-05 - ADDED STATE PLANE COORDS.
REVISED 10-5-05 - CORRECTED ROAD STATEMENT
REVISED 10-24-05 - CORRECTED PARCEL NUMBERS
REVISED 05/17/06 ADDED ACCESS EASEMENT @ LOT 1 & 2
REVISED 07/27/08 ADJUSTED LOT 1 MOVED ACCESS EASEMENT @ LOT 1 & 2

ROAD (LYFORD PLACE) & OPEN SPACE TO BE
MAINTAINED BY LYFORD PLACE HOMEOWNERS
ASSOCIATION

STATE PLANE COORDINATES BASED ON NAD83
BEARINGS ARE MAGNETIC

BEAUFORT COUNTY SC - ROD
BK 00115 PG 0088
FILE NUM 200802105
08/04/2008 12:11:24 PM
REC'D BY P BAXLEY RCP19 436982
RECORDING FEES 10.00

SUBDIVISION PLAT
PREPARED FOR
DUMAC, LLC
LYFORD PLACE
CITY OF BEAUFORT

BEAUFORT COUNTY SOUTH CAROLINA

SUBDIVISION ACREAGE
LOTS - 1.624 ACRES (70762 sq.ft.)
O/S - 0.683 ACRES (29768 sq.ft.)
R/W - 0.603 ACRES (26277 sq.ft.)
TOTAL - 2.911 ACRES (126807 sq.ft.)

NO.	DELTA	RADIUS	ARC	TANGENT	C-BEARING	CHERD
1	61°04'3"	78.00'	7.55'	3.78'	S26°09'57"E	7.54'
2	49°36'30"	78.00'	6.66'	32.35'	S01°47'40"W	26.73'
3	14°34'04"	78.00'	42.53'	21.57'	S44°47'58"W	41.40'
4	90°11'19"	20.00'	31.48'	20.07'	N15°54'21"E	28.33'

NO.	BEARING	DISTANCE	NO.	BEARING	DISTANCE
AA	S61°00'00"W	49.15'	BF	N29°11'18"W	59.35'
AB	S61°00'00"W	50.00'	BG	N49°36'56"W	12.22'
AC	S61°00'00"W	50.00'	BH	N30°03'11"W	35.34'
AD	S61°00'00"W	50.00'	BI	N61°00'00"E	4.80'
AE	S61°00'00"W	50.00'	BJ	N29°11'19"W	6.93'
AF	S61°00'00"W	50.14'	BK	N29°11'19"W	10.02'
AG	N29°00'00"W	48.29'	BL	S64°32'04"W	26.73'
AH	N29°22'36"W	1.71'	BM	N60°53'01"E	57.51'
AI	N61°00'00"E	4.00'	BN	S29°00'00"E	8.46'
AJ	N29°00'00"W	29.52'	BO	S39°00'00"E	18.44'
AK	N61°00'00"E	4.00'	BP	N60°53'01"E	67.81'
AL	S29°00'00"E	39.00'	BQ	S64°32'04"W	26.40'
AM	N29°11'19"W	43.83'			
AN	N29°11'19"W	24.94'			
AO	N60°39'01"E	9.29'			
AP	N61°59'28"E	46.71'			
AQ	N11°45'28"W	2.99'			
AR	S08°08'23"W	20.85'			
AS	S08°54'06"W	25.31'			
AT	N08°05'28"W	50.71'			
AU	S60°22'34"W	33.65'			
AV	S61°00'00"W	50.00'			
AW	S60°58'42"W	20.23'			
AX	S89°49'15"W	13.75'			
AY	S82°58'46"W	49.66'			
AZ	N02°58'46"E	50.00'			
BA	S79°56'48"E	21.31'			
BB	N30°29'39"W	53.44'			
BC	N02°58'46"E	27.77'			
BD	N87°01'14"W	15.00'			

EXEMPT

The development plan shall be exempt from the
requirements of the City of Beaufort, S.C. Development
Ordinance according to the jurisdiction of the S.C.

Certified by: *[Signature]*
Date: 8-4-06
City of Beaufort Planning Department

I HEREBY STATE THAT TO THE BEST OF MY KNOWLEDGE,
INFORMATION AND BELIEF, THE SURVEY SHOWN HEREIN
WAS MADE IN ACCORDANCE WITH THE REQUIREMENTS OF
THE MINIMUM STANDARDS MANUAL FOR THE PRACTICE OF
LAND SURVEYING IN SOUTH CAROLINA, AND MEETS OR
EXCEEDS THE REQUIREMENTS FOR A CLASS 2 SURVEY AS
SPECIFIED THEREIN.
ALSO THERE ARE NO VISIBLE ENCROACHMENTS OR
PROJECTIONS OTHER THAN SHOWN.



[Signature]
DAVID S. YOUMANS RLS 9765
BEAUFORT SURVEYING, INC.
1613 PARIS AVENUE
BEAUFORT, S.C. 29935
PHONE (843) 524-3281 525-1175

[Handwritten initials]

STATE OF SOUTH CAROLINA) IN THE MAGISTRATE COURT
COUNTY OF BEAUFORT) Civil Case No: 2018-

LINDA AMMONS)

Plaintiff,)

VS.)

ORMONDO LEOMBRUNO,)

Defendant.)

**COMPLAINT AND MOTION FOR
A RESTRAINING ORDER**

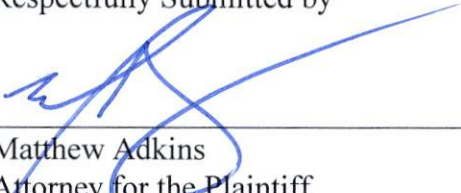
THE PLAINTIFF ALLEGES, upon information and belief, that:

1. The Plaintiff resides in Beaufort County, South Carolina. She is a resident of Lyford Place, located at 113 Lyford Place, Beaufort, South Carolina, 29907.
2. The Defendant resides at 111 Lyford Place, Beaufort, South Carolina.
3. All of the conduct of the Defendant about which the Plaintiff complains occurred on or around the property of the Plaintiff in Beaufort County, South Carolina.
4. The Plaintiff alleges that the Defendant committed certain acts which fall within the definition of Harassment and/or Stalking, as proscribed by SC Code Section 16-3-1700 (A) at the dates, times, and places described in below.
5.
 - a) During the time period on or about October 2017 through April 2018, the Defendant made personal threats for no legitimate purpose that caused the Plaintiff to alter her daily activities and substantially change her lifestyle in order to avoid conflict. In fact, the Plaintiff goes to extraordinary measures to avoid any and all contact with Defendant.
 - b) The Plaintiff has made numerous verbal requests to the Plaintiff and called law enforcement in an effort to stop the intimidation and harassment without success.
 - c) Sometime between October 2017 and December 2017, the Defendant repeatedly called the Plaintiff a "Fucking bitch, you fucking bitch" while the Plaintiff was in her own driveway. Further, the Defendant screamed "Get back in your car, we don't want you here!"

This document conforms in all material ways with SCCA/749 (Amended 12/2015).

- d) On or about January 1st, 2018, the Defendant intentionally blocked access to the Plaintiff's driveway by parking his motorcycle and positioning his garbage cans in the only path of ingress to her home.
 - e) On or about January 25, 2018, Defendant intentionally knocked over the Plaintiff's garbage cans when set out for city pickup. Plaintiff has been coerced to take her garbage and debris to the landfill in order to avoid further conflict with the Defendant.
 - f) On or about March 30, 2018, the Defendant video recorded the Plaintiff while she removed metal spikes the Plaintiff installed with the intent to intimidate the Plaintiff from driving on common property. The Defendant provoked her with words to the effect of "she's got a weapon, I'm going to call the police."
 - g) The Plaintiff has called law enforcement due to the ongoing disputes because she fears for her safety and the vitriol has escalated over the course of several months. Beaufort City Police Officers Rosario, Waddell, Shytle and Brubaker, and Cottingham have all responded to various complaints over the course of time referenced in this Complaint.
 - h) On or about April 24, 2018, an officer of the Beaufort Police Department, responding to a complaint by the Plaintiff recommended that the Plaintiff file a restraining order against the Defendant. A copy of this report is attached..
6. As a result of the above acts and in an effort to prevent future episodes, the Plaintiff requests:
- A) That the defendant be enjoined from abusing, threatening to abuse, or molesting the plaintiff or members of the plaintiff's family;
 - B). That the defendant be enjoined from entering or attempting to enter the plaintiff's place of residence, employment, education, or other location; AND
 - C) That the defendant be enjoined from communicating or attempting to communicate with the plaintiff in a way that would violate Article 17, Chapter 16 of the 1976 South Carolina Code of Laws, as amended.

Respectfully Submitted by


Matthew Adkins
Attorney for the Plaintiff

April 26, 2018
Beaufort, SC

This document conforms in all material ways with SCCA/749 (Amended 12/2015).

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Beaufort Police Department

Officer Report for Incident 18B31207

Nature: Disturbance
Location: B808

Address: 113 LYFORD PL
City of Bft SC

Offense Codes:

Received By: Avery, T	How Received: 9	Agency: BFPD
Responding Officers: Shytle, D, Brubaker, T		
Responsible Officer: Shytle, D	Disposition: ACT 04/24/18	
When Reported: 20:12:24 04/24/18	Occurred Between: 20:11:56 04/24/18 and 20:12:00 04/24/18	

Assigned To: _____ Detail: _____ Date Assigned: **/**/**
Status: _____ Status Date: **/**/** Due Date: **/**/**

Complainant:

Last:	First:	Mid:
DOB: **/**/**	Dr Lic:	Address:
Race:	Sex:	Phone:
		City:

Offense Codes

Reported:	Observed:
1	1
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100	100

Circumstances

Responding Officers:	Unit :
Shytle, D	231
Brubaker, T	221

Responsible Officer:	Shytle, D	Agency:	BFPD
Received By:	Avery, T	Last Radio Log:	**.**:** **/**/**
How Received:	9 911 Line	Clearance:	NP No Paper
When Reported:	20:12:24 04/24/18	Disposition:	ACT Date: 04/24/18
Judicial Status:		Occurred between:	20:11:56 04/24/18
Misc Entry:		and:	20:12:00 04/24/18

Modus Operandi:	Description :	Method :
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Involvements

Date	Type	Description
04/24/18	Cad Call	20:12:24 04/24/18 Disturbance
		Initiating Call

NOTICE
SOMETIMES VARY
DISPATCHED AND THE CALL WORKED CAN
REFLECT THE ACTUAL CALL. THE CALL
THIS REPORT IS GENERATED FROM THE 911
CENTER. THE CALL TYPE DOES NOT ALWAYS
REFLECT THE ACTUAL CALL. THE CALL
DISPATCHED AND THE CALL WORKED
SOMETIMES VARY

NOTICE

Narrative

NOTICE

THIS REPORT IS GENERATED FROM THE 911
CENTER. THE CALL TYPE DOES NOT ALWAYS
REFLECT THE ACTUAL CALL. THE CALL
DISPATCHED AND THE CALL WORKED CAN
SOMETIMES VARY

Supplement

05:25:39 04/25/2018 - Shytte, D

LINDA AMMONS stated her next door neighbor constantly harasses her. AMMONS stated they both have trespass notices on each other. The neighbor is upset about AMMONS not following HOA regulations.

I advised both parties to speak with the HOA president to help solve the issue. AMMONS was also advised to seek a restraining order against her neighbor if she thought it necessary.

NOTICE

THIS REPORT IS GENERATED FROM THE 911 CENTER. THE CALL TYPE DOES NOT ALWAYS REFLECT THE ACTUAL CALL. THE CALL DISPATCHED AND THE CALL WORKED CAN SOMETIMES VARY

8

STATE OF SOUTH CAROLINA
COUNTY OF BEAUFORT

IN THE MAGISTRATE COURT
CIVIL CASE NO. 2018OR0710400011

LINDA HITT AMMONS,

Plaintiff,

v.

ORMONDO LEOMBRUNO,

Defendant.

MUTUAL RESTRAINING ORDER

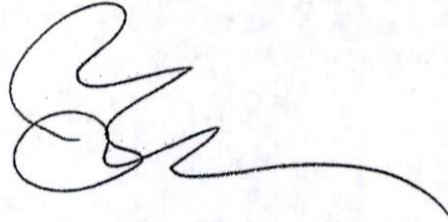
BEAUFORT CO MAGISTRATE COURT
CENTRAL COURT NORTH
2018 MAY 30 PM 12:55

This matter came before me for a hearing on May 22, 2018 on the Plaintiff's Motion for Restraining Order. The Defendant has not answered the Complaint or filed any cross motions. The Court heard the opening remarks of counsel, and conducted extensive off-the-record private discussion with counsel. After this extended discussion, the parties have agreed to a Mutual Restraining Order, as set forth below;

1. As to each of the parties' private property, the parties (including the Defendant's wife) are hereby restrained from having any verbal communication or other interaction with the other, and they will at all times conduct themselves in a civil manner. Neither party will enter the private property of the other without express permission.
2. The parties acknowledge the common area to the north of their respective lots, which includes a shared vehicle access, the boundary of which common area is well defined on the Lyford Place subdivision plat. Within this common area, the parties (to include the Defendant's wife) are likewise restrained from having any direct verbal or other

communication or interaction with the other¹. Further, any activity by either party within this common area must comply with the Lyford Place covenants, restrictions and by-laws.

AND IT IS SO ORDERED.



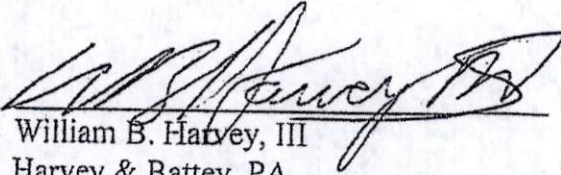
Bernard McIntyre
Beaufort County Magistrate

Beaufort, South Carolina

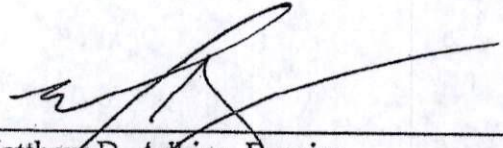
Dated: May 22, 2016

¹Indirect contact by inclusion in email communications with HOA officials is allowed

WE CONSENT:



William B. Harvey, III
Harvey & Battey, PA
P.O. Drawer 1107
1001 Craven Street
Beaufort, SC 29901
(843) 524-3109
Fax: (843) 524-6973
bharvey@harveyandbattey.com



Matthew D. Adkins, Esquire
The Law Offices of Jim Brown, PA
1600 Burnside Street
Beaufort, SC 29901
843-470-0003
madkins@hargray.com

Second Request for R.O.
6/17/19 Court Appearance

STATE OF SOUTH CAROLINA

2018 OR 0710400011

CIVIL CASE NUMBER

COUNTY OF BEAUFORT

REQUEST FOR
RULE TO SHOW CAUSE

Orlando Leombruno

PLAINTIFF(S)

Vs

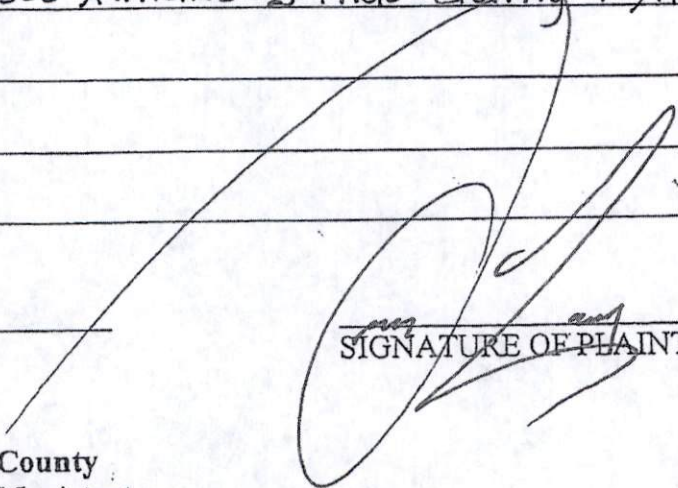
Linda Hitt Ammons

DEFENDANT(S)

I, Orlando Leombruno, Plaintiff/~~Defendant~~, request a rule to show cause hearing based on the following:

SEE ATTACHED 2. PAGE Listing & Attachments.

5/28/19
DATE


SIGNATURE OF PLAINTIFF/DEFENDANT

Beaufort County
Beaufort Magistrate
104 Ribaut Road Post Office Box 2207
Beaufort, SC 29901
Phone:(843) 255-5700 Fax:(843) 255-9516

I, ORMONDO LEOMBRUNO, PLAINTIFF, REQUEST A RULE TO SHOW CAUSE HEARING BASED ON THE FOLLOWING:
IN SPITE OF MUTUAL RESTRAINING ORDER 5/22/18, AMMONS HAS CONTINUED TO HARASS LEOMBRUNOS.

AMMONS HAS, INCLUDING BUT NOT LIMITED TO, DONE THE FOLLOWING:

- 1) INTENTIONAL DESTRUCTION OF LYFORD PLACE ASSOCIATION PROPERTY MAINTAINED BY LEOMBRUNO. SEE 9/13/18 LYFORD PLACE ASSOCIATION LETTER AND 1/28/19 LETTER FROM ATTORNEY MIKELL AS WELL AS 4/6/18 LYFORD PLACE ASSOCIATION LETTER AND PHOTOS OF AMMONS DOING VANDALISM TO PROPERTY MAINTAINED BY LEOMBRUNO. ADT VIDEOS ARE ALSO AVAILABLE. (FIRST VIDEO CAMERAS WERE INSTALLED APRIL 2018 AND SUBSEQUENT ADDITIONAL CAMERAS WERE LATER INSTALLED).
- 2) AMMONS PLACED GUN RANGE TARGET IN WINDOW FACING LEOMBRUNO WINDOW (SEE PHOTO) MID SEPTEMBER 2018 AND IT REMAINS IN PLACE AS SHOWN IN PHOTO. THIS IS CONCERNING BECAUSE AMMONS HAS VERBALLY THREATENED LEOMBRUNO WITH GUNS AND KNIVES.
- 3) AMMONS MAKES HARASSING AND OBSCENE GESTURES TO BOTH FRAN AND ORMONDO LEOMBRUNO AS WELL AS SAME GESTURES TO LEOMBRUNO SECURITY CAMERAS. SEE PHOTOS. THESE ARE JUST A FEW OF MANY PHOTOS.
- 4) CONTINUING NON-COMPLIANCE OF TRESPASS NOTICE AND RESTRAINING ORDER. SEE PHOTOS OF AMMONS TRESPASSING ON LEOMBRUNO PROPERTY AND NO TRESPASS SIGNAGE ON LEOMBRUNO PROPERTY. SIGNAGE WAS PLACED PER REQUEST OF BEAUFORT POLICE.
- 5) INCIDENT REPORT 18B65482 DATED 9/18/18 WHERE AMMONS NEARLY STRUCK ORMONDO LEOMBRUNO WITH HER CAR.
- 6) AMMONS REPEATEDLY SOAKING ADT SECURITY CAMERA AND TWO LEOMBRUNO WINDOWS WITH WATER. SEE PHOTOS.
- 7) AMMONS REPEATEDLY PARKING HER CAR FOR DAYS AT A TIME TO BLOCK ACCESS DRIVE AND ABILITY FOR LEOMBRUNO TO EXIT DRIVEWAY. SEE 1/9/19 LETTER SENT TO AMMONS BY LYFORD PLACE ASSOCIATION AND PHOTOS.
- 8) SCREAMING OBSCENITIES AT FULL VOLUME AT LEOMBRUNO FOR UNKNOWN REASONS. AUDIO CLIPS ARE AVAILABLE. WITNESSES ARE AVAILABLE.

2018OR0710400011
CIVIL CASE NUMBER

9) AMMONS REMOVED SECTION OF LEOMBRUNO'S FRONT LAWN AND PLACED STONE AND VARIOUS LANDSCAPE ON LEOMBRUNO'S PROPERTY. THIS OCCURRED ON VARIOUS UNKNOWN DATES. SEE PHOTOS AND STATEMENT FROM GASQUE ASSOCIATES EXPLAINING JOINT PROPERTY LINE.

10) AMMONS PLACED PINE STRAW ON SECTION OF LEOMBRUNO PROPERTY IN SUMMER 2018. SEE PHOTOS AND LETTER DATED 8/24/18.

HELP IS SOUGHT TO STOP THE CONTINUING HARASSMENT.

* SEE : "RECENT INCIDENTS" - May 30, 2019 - June 11, 2019

* - "Feb 23, 2019 Incident"

STATE OF SOUTH CAROLINA	)	IN THE MAGISTRATE COURT
	)	
COUNTY OF BEAUFORT	)	CIVIL CASE NO. 2018-OR-07-10400011

LINDA HITT AMMONS,	)	
	)	
Plaintiff,	)	NOTICE OF MOTION
	)	AND
VS.	)	MOTION TO PRODUCE
	)	A WRITTEN ORDER
ORMONDO LEOMBRUNO,	)	
	)	
Defendant.	)	

RECEIVED
BEAUFORT MAGISTRATE COURT
2019 NOV 14 AM 9:20

TO THE PLAINTIFF,
c/o Naki Richardson-Bax, Attorney

PLEASE TAKE NOTICE that the Defendant will move the Court at such a date, time, and place as determined by the Court, requesting the Court to transform the oral Order of Contempt issued on June 17, 2019 to a written Order.

The grounds upon which the Motion is made are these:

1. Rule 8(a) of the SC Magistrates Court Rules provides that "Every order... shall be delivered to each of the parties, unless otherwise ordered by the Court."

There is no existing Order that prohibits the delivery of the oral Order of June 17, 2019 to each of the parties. Thus, a written Order should be prepared, filed, and delivered to each of the parties per the Rule.

2. In the interests of justice and due process of law, an Order as significant as an Order for Contempt should be reduced to writing, filed, and delivered to each of the parties. This concept is the basis for Rule 8(a).
3. In the event that there is an appeal from any of the proceedings in this case, a written Order will be consistent with the interests of justice and due process of law.
4. Rule 2 of the SC Magistrates Court Rules provides that "These rules shall govern all civil suits in Magistrates Court. If no procedure is provided by



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these rules, the Court shall proceed... with circuit court practice in similar situations but not inconsistent with these rules".

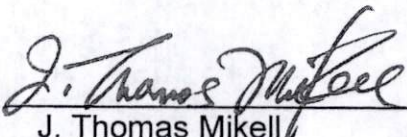
Rule 52(a) SCRCP provides that where there is a trial without a jury, the Court shall find the facts specially and state separately its conclusions of law thereon and judgment shall be entered pursuant to Rule 58.

Rule 58(a)(2) SCRCP requires the Judge to promptly prepare, review, approve, and enter the decision of the Court.

Respectfully submitted,

J. Thomas Mikell, P.C.

November 13, 2019

By: 
J. Thomas Mikell
P.O. Box 1727
Beaufort, SC 29901
843-542-2110
Attorney for the Defendant

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2019 NOV 14 AM 9:20



16

STATE OF SOUTH CAROLINA)

COUNTY OF BEAUFORT)

LINDA HITT AMMONS,)

Plaintiff,)

vs.)

ORMONDO LEOMBRUNO,)

Defendant.)

IN THE MAGISTRATES COURT

Citation No.: 20180R0710400011

ORDER OF CONTEMPT

2019 NOV 15 AM 8:06

BEAUFORT COUNTY COURT

THIS MATTER CAME BEFORE ME on June 17, 2019 pursuant to a Rule to Show Cause filed by Defendant Ormondo Leombruno as against Plaintiff Linda Hitt Ammons. The Rule Petition sought to have Plaintiff held in contempt for violating the Court Order dated May 30, 2018. Present and appearing for the Rule hearing were both Plaintiff and Defendant and witnesses.

The Court Order dated May 30, 2018 was a Mutual Restraining Order which was the result of the parties' agreement and resolution of their issues. In the Mutual Restraining Order the parties agreed they are "restrained from verbal communication or other interaction with the other", even within the common areas.

After hearing the Court found that Plaintiff Linda Hitt Ammons violated the Mutual Restraining Order by, among other things, screaming obscenities, cursing and sticking her middle finger (i.e., giving the bird) at Defendant on a number of separate occasions and other similar acts constituting harassment and prohibitive conduct in contravention of the express language of the restraining order. These actions, the Court found, constitute "verbal

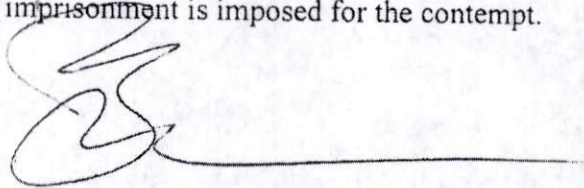
communication and other interaction" expressly forbidden in the order. The Court granted mercy and did not impose a fine or term of imprisonment.

Now, therefore, it is accordingly,

Ordered, Adjudged, and Decreed that Plaintiff Linda Hitt Ammons is hereby held in contempt of this Court's Mutual Restraining Order dated May 30, 2018.

It is further Ordered that no fine or term of imprisonment is imposed for the contempt.

IT IS SO ORDERED.



The Honorable Bernard McIntyre
Presiding Magistrate for Beaufort County

Beaufort, South Carolina
November 14, 2019

STATE OF SOUTH CAROLINA
COUNTY OF BEAUFORT

IN THE COURT OF COMMON PLEAS
FOURTEENTH JUDICIAL CIRCUIT
CASE NO: 20180R0710400011

Linda Ammons,

Appellant,

vs.

Ormondo Leombruno,

Respondent.

NOTICE OF APPEAL

Linda Ammons, by and through counsel, hereby appeals the Order of the Honorable Bernard McIntyre dated November 14, 2019 and filed November 15, 2019 a copy of which is attached hereto. Counsel received written notice of the entry of the order on December 11, 2019.

Beaufort, South Carolina
December 17, 2019

Respectfully submitted,

/s/ Naki Richardson-Bax
Naki Richardson-Bax
The Bax Law Firm
2 Merchants Lane, Suite 210
Beaufort, SC 29907
Phone: (843) 522-0980
Fax: (843) 379-3115
Naki.baxlaw@gmail.com
ATTORNEY FOR DEFENDANT

copy
Submitted 10/9/19

STATE OF SOUTH CAROLINA

2018OR0710400011

CIVIL CASE NUMBER

COUNTY OF BEAUFORT

REQUEST FOR
RULE TO SHOW CAUSE

ORMONDO LEOMBRUNO

FRAN LEOMBRUNO

111 Lyford Place, Beaufort, SC 29902

PLAINTIFF(S)

Vs

LINDA HITT AMMONS

113 Lyford Place

Beaufort, SC 29902

DEFENDANT(S)

I, Ormondo Leombruno & Fran Leombruno, Plaintiff/Defendant, request a rule to show cause hearing based on the following:

LINDA AMMONS NOT ABIDING BY RESTRAINING ORDER DATED 6/17/19.

1) TRESPASSING ON OUR PROPERTY. SEE DATED ADT VIDEO PHOTOS.

2) MOONING OUR CAMERAS & PLACING TRASH BY OUR GARAGE.

SEE POLICE REPORT #19B50643 AND PHOTOS.

3) HITTING OUR PLANTER WITH HER VEHICLE. SEE ADT PHOTOS.

4) BLOCKING ACCESS TO COMMON DRIVEWAY. SEE ADT & iPhone PHOTOS.

5) MAKING RUTS & DAMAGING PAVERS. SEE POLICE REPORT #19B61729 & PHOTOS.

10/9/19

DATE

Fran Leombruno

SIGNATURE OF PLAINTIFF/DEFENDANT

Beaufort County
Beaufort Magistrate
104 Ribaut Road Post Office Box 2207
Beaufort, SC 29901
Phone: (843) 255-5700 Fax: (843) 255-9516

STATE OF SOUTH CAROLINA
COUNTY OF BEAUFORT

IN THE COURT OF COMMON PLEAS
FOURTEENTH JUDICIAL CIRCUIT
CASE NO: 2018OR0710400011

Ormundo Leombruno and Fran
Leombruno,

Plaintiff,

vs.

Linda Ammons,

Defendant.

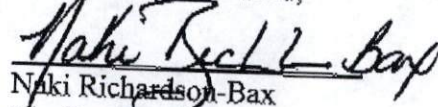
**MOTION TO CONTINUE AND
MOTION FOR JOINDER AND
TRANSFER**

Defendant, Linda Hitt Ammons, by and through her undersigned attorney, requests a continuance due to insufficient notice as of Defendant was served with a Rule to Show Cause on October 16, 2019 for the hearing scheduled on October 23, 2019. Defendant and her counsel need adequate time to prepare.

Defendant, having both compulsory and permissive counter-claims against the Plaintiff pursuant to SCRCP Rules 13, 18, 19, and 20; as evidenced by her Answer and Counter-claims which exceed the monetary jurisdiction of this court, hereby moves for the joinder and transfer of this case and any issues, motions, or otherwise as required to the Court of Common Pleas with case number 2019CP0702310. This compulsory joinder is based on the fact that the subsequent filing by the Plaintiffs arises from the same set of facts and circumstances and the Plaintiffs are consenting to the removal of that case to Common Pleas and/or the Beaufort County Master-in-Equity.

Beaufort, South Carolina
October 21, 2019

Respectfully submitted,



Naki Richardson-Bax
The Bax Law Firm
2 Merchants Lane, Suite 210
Beaufort, SC 29907
Phone: (843) 522-0980
Fax: (843) 379-3115
Naki.baxlaw@gmail.com
ATTORNEY FOR DEFENDANT

STATE OF SOUTH CAROLINA) IN THE MAGISTRATE COURT
COUNTY OF BEAUFORT) CIVIL CASE NO. 2018-OR-07-10400011

LINDA HITT AMMONS,
Plaintiff,

VS.

ORMONDO LEOMBRUNO,
Defendant.

RETURN TO MOTION
FOR JOINDER AND TRANSFER

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2019 NOV 14 AM 9:20

TO THE PLAINTIFF,
c/o Naki Richardson-Bax, Attorney

The Defendant responds to the Motion For Joinder and Transfer of October 21, 2019 in the following manner, to wit:

Issue One

The Answer and Counterclaim may exceed the monetary jurisdiction of the Court.

This case is solely and only about claims for harassment and the remedy sought is for a Restraining Order.

There is no monetary jurisdiction involved in this case.

Issue Two
Same Set of Facts

1. This case was originally filed upon a Complaint of April 27, 2018 in which the title of the Complaint was "Complaint and Motion for a Restraining Order" and the PRAYER sought the remedy the remedy of a Restraining Order. The facts alleged in the



Complaint relate only to disputed personal interactions between the Plaintiff and the Defendant (two individuals) and no other persons nor entities. There was no issue regarding contracts nor was there any issue regarding monetary damages.

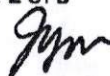
Subsequently, these events took place in this case:

- a. A Mutual Restraining Order was consented to in writing by both parties against each other filed May 30, 2018.
 - b. Upon a Rule To Show Cause issued for the Defendant dated _____, 2019, a bench trial took place on June 17, 2019. The Court orally found the Plaintiff to be in violation of the Restraining Order (i.e., to be in contempt) but granted the remedy of "mercy" without penalty.
 - c. Upon a Rule To Show Cause issued for the Defendant dated October 19, 2019, a hearing was scheduled on October 23, 2019 and also on November 6, 2019. Both hearings were continued upon request of the Plaintiff until November 7, 2019.
2. On July 22, 2019 (15 months after the filing of 2018-OR-07-10400011) the Lyford Place Community Association, Inc. instituted suit against Linda Ammons (the Plaintiff in this case) seeking monetary damages of \$2,235.49 for damage caused to common property of the Community Association and attorneys fees incurred by the Community Association -- both monetary damages claimed being contractual obligations of Linda Ammons per the written provisions of the Declaration of Covenants for Lyford Place.
3. Thus, it is manifest that the "facts and circumstances" of the two cases are not the same.

This case is a dispute between two homeowners as to their personal conduct between each other in which the remedies sought are Restraining Orders or penalties for the violations of Restraining Orders.

The other suit is a dispute arising out of a written Contract between a Community Association and an Owner that is a member of that Association and the remedy sought is for monetary damages.

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Issue Three
Exclusive Jurisdiction

This Court issued an Order of Mutual Restraint on May 30, 2018 and on June 17, 2019 found the Plaintiff to be in violation of the original Order after a trial. Neither of those Orders are under appeal so they have become "law of the case"; i.e., Linda Hitt Ammons has been found by this Court to be in contempt.

What is before this Court at this time is the remedy to deal with the violation of both of those previous Orders; i.e., the remedy for contempt.

Thus, this Court has the exclusive jurisdiction to carry out the previous Orders issued by it and that jurisdiction cannot be transferred except by the process of appeal.

Issue Four
Due Process of Law

This Court issued an Order of Mutual Restraint on May 30, 2018 and on June 17, 2019 found the Plaintiff to be in violation of that original Order after a trial.

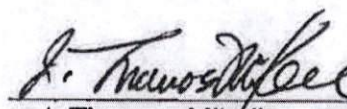
What is before this Court at this time is the remedy to deal with the violation of both of the previous Restraining Orders; i.e., the remedy for contempt.

A person cannot be tried and found guilty by one Court and then seek a remedy to be issued by another Court? That would be a violation of the concept of Due Process of Law. The remedy for the finding of contempt has to be carried out by the same court that issued the finding for contempt.

Respectfully submitted,

November 13, 2019

J. Thomas Mikell, P.C.

By: 

J. Thomas Mikell
P.O. Box 1727
Beaufort, SC 29901
843-542-2110
Attorney for the Defendant

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STATE OF SOUTH CAROLINA)
COUNTY OF BEAUFORT)

IN THE MAGISTRATE COURT
CIVIL CASE NO. 2018-OR-07-10400011

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BEAUFORT MAGISTRATE COURT
2019 NOV 14 AM 9:21

LINDA HITT AMMONS,)
Plaintiff,)
VS.)
ORMONDO LEOMBRUNO,)
Defendant.)

NOTICE OF MOTION
AND
MOTION TO VIEW SITE

TO THE PLAINTIFF,
c/o Naki Richardson-Bax, Attorney

PLEASE TAKE NOTICE that the Defendant will move the Court at such a date, time, and place as determined by the Court for an Order that the Court, as trier of fact in a hearing pursuant to the pending Rule To Show Cause dated October 19, 2019, should be taken to view the place that is the disputed area where the alleged altercations between the Plaintiff and the Defendant have taken place, i.e., at Lots 1 and 2 of Lyford Place Development off Depot Road in the City of Beaufort, SC 29902.

The ground upon which the Motion is based is Section 14-7-1320 of the SC Code of Law, 1976, as amended.

Respectfully submitted,

November 13, 2019

J. Thomas Mikell, P.C.

By: J. Thomas Mikell
J. Thomas Mikell
P.O. Box 1727
Beaufort, SC 29901
843-542-2110
Attorney for the Defendant

STATE OF SOUTH CAROLINA) IN THE MAGISTRATE COURT
COUNTY OF BEAUFORT) CIVIL CASE NO. 2018-OR-07-10400011

LINDA HITT AMMONS,)
)
Plaintiff,)
)
VS.)
)
ORMONDO LEOMBRUNO,)
)
Defendant.)

ORDER
1. Denying Motion For Joinder
and
2. Granting Motion To View

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These Motions came before the Court on November 19, 2019 at 2:00 p.m. at the offices of the Magistrate's Court at 104 Ribaut Road, Beaufort, SC 29902 based on a Motion For Joinder filed by the Plaintiff on October 16, 2019 and a Motion To View the site filed by the Defendant on November 13, 2019. After hearing presentations by the Counsel for the parties (Naki Richardson-Bax for the Plaintiff and J. Thomas Mikell for the Defendant), the Court issued these decisions.

A. Motion For Joinder and Transfer to Common Pleas

1. The Motion argues that the decision of the Court may exceed the monetary jurisdiction of the Magistrate's Court.

The case to which the Plaintiff seeks to join this case is CA 2019-CP-07-02310. It is a suit by a Community Association against the Plaintiff in this case as an Owner of a lot in the Community Association which seeks the remedy of money damages due to alleged Common Property damage caused by the Owner.

The instant case is solely and only about matters arising between the Plaintiff and Defendant of alleged acts of harassment and the remedy sought is for a Restraining Order. There is no monetary damage claim in this case.

Thus, the position of the Plaintiff on this issue fails.

2. The Motion argues that the facts and circumstances are the same between this case and the Common Pleas case.

The instant case, again, is about disputed personal interactions between the Plaintiff and the Defendant (two individuals). There is no claim alleged

regarding any contracts nor monetary damages. The remedies sought by both parties are Restraining Orders against the other party.

On the other hand, the case in Common Pleas alleges a breach of contract by a Community Association and seeks the remedy of specific performance by the payment of money damages from a Lot Owner. While there has been a Counterclaim filed and an attempt to Crossclaim the Defendant in this case and also the President of the Association in their individual capacities, the parties in the two cases are different, the causes of action in the two cases are different, and, the remedies in the two cases are different.

In addition, a Trial took place on June 17, 2019 in which this Court found the Plaintiff to be in contempt but did not issue a penalty except "mercy". As a matter of due process of law, the Defendant is entitled to have the same Court that issued the decision for contempt to now issue an Order for a penalty if this Court determines the Plaintiff to have again for a second time violated the Joint Restraining Order issued on May 30, 2018 in this case.

Thus, the position of the Plaintiff on this issue fails.

B. Motion To View The Site

This Motion is brought pursuant to *Section 14-7-1320 S.C. Code of Laws, 1976, as amended* by the Defendant. As the testimony in the previous trial and the matters stated in the Rule To Show Cause relate to the two parties living on two home sites that are side by side and the parties use a common driveway, the Court, as the trier of fact, is of the opinion that a view of the site will assist the Court in understanding the testimony.

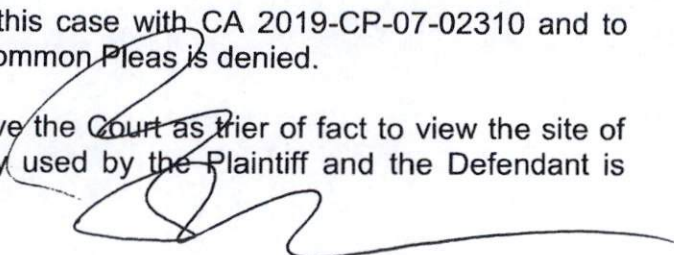
Thus, the position of the Defendant on this issue prevails.

DECISION

It is hereby ORDERED as follows, to wit:

1. The Motion of the Plaintiff to join this case with CA 2019-CP-07-02310 and to transfer this case to the Court of Common Pleas is denied.
2. The Motion of the Defendant to have the Court as trier of fact to view the site of the houses and common driveway used by the Plaintiff and the Defendant is granted.

November 13, 2019.


Bernard McIntyre
Magistrate

STATE OF SOUTH CAROLINA

COUNTY OF BEAUFORT

LINDA HITT AMMONS,

Plaintiff,

vs.

ORMONDO LEOMBRUNO,

Defendant.

IN THE MAGISTRATES COURT

Citation No.: 20180R0710400011

CORRECTED ORDER
OF CONTEMPT

11/19/19
Court Appearance

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THIS MATTER CAME BEFORE the Magistrate Court on November 19, 2019 pursuant to a Rule to Show Cause (hereafter referred to as the Rule) filed by Defendant Ormondo Leombruno as against Plaintiff Linda Hitt Ammons. The Rule to Show Cause was duly filed with the Court on October 9, 2019. The Affidavit of Service of the Beaufort County Sheriff's Department attests to proper service. No objections were made as service or the Court's jurisdiction.

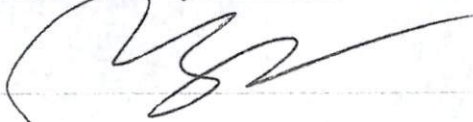
Present and appearing for the hearing on the Rule were Plaintiff Linda Hitt Ammons and her counsel, Naki Richardson-Bax, Esquire; and Defendant Ormondo Leombruno, his counsel, J. Thomas Mikell, Esquire and Defendant's witness.

Based on the Rule to Show Cause, testimony of the witnesses, exhibits and actual viewing of the site by the Court, the Court makes the following findings of fact.

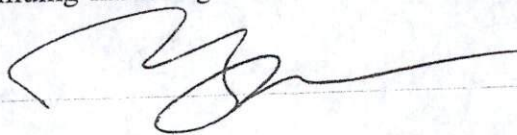
FINDINGS OF FACT

1. This case was initially filed as a Summons and Complaint and Motion for a Restraining Order in April 2018 by Plaintiff Ms. Ammons alleging harassment by Defendant Mr. Leombruno.

2. Before Defendant could file an Answer, a hearing was scheduled on May 30, 2018. Prior to receiving any testimony or exhibits, the parties announced they had reached an agreement. As a result, the Court entered a Mutual Restraining Order dated May 30, 2019. The Order was signed by legal counsel for both parties. Both parties have different legal counsel for this hearing.
3. In May 2019 Defendant Mr. Leombruno filed a Rule to Show Cause alleging Plaintiff Ms. Ammons was violating the Mutual Restraining Order dated May 30, 2018. A trial occurred on that Rule on June 17, 2019. After hearing, the Court entered an oral Order from the Bench finding Plaintiff Ms. Ammons in contempt with the penalty imposed of mercy. The oral Order of the Court was subsequently ratified in a written Order dated November 14, 2019 in which the Court found specifically that Plaintiff Ms. Ammons had violated the Mutual Restraining Order dated May 30, 2018 by, among other things, screaming obscenities, cursing and sticking her middle finger (i.e., giving the bird) at Defendant Mr. Leombruno and his wife on a number of separate occasions and participating in similar acts constituting harassment in contravention of the Restraining Order. These actions were found to constitute "verbal communication and other interaction" expressly forbidden in the Restraining Order.
4. The instant Rule dated October 9, 2019 alleges Plaintiff Ms. Ammons violated the Mutual Restraining Order in several ways: trespassing on Defendant's property, mooning the cameras of Defendant, blocking access to the common driveway of both parties, hitting with her vehicle the planter of the Community Association maintained by Defendant and making ruts and damaging pavers in the common area maintained for the Community Association by Defendant.



5. A Motion was filed by Plaintiff to join the instant case with Case No. 2019CP0702310 filed by Lyford Place Community Association in the Beaufort County Court of Commons Pleas. Defendant filed a Motion for the Court to View the Site of the dispute. Both Motions were heard on November 19, 2019 as preliminary matters prior to the full hearing on the merits of the Rule to Show Cause filed on October 9, 2019. The Court entered a separate Order denying the Motion for Joinder and granting the Motion to View the Site.
6. There was placed into evidence a deed to the Lyford Place Community Association (Record Book 3288 at Page 2224) and a plat (Plat Book 115 at Page 98) which show Lot 1 owned by Defendant Mr. Leombruno and Lot 2 owned by Plaintiff Ms. Ammons behind Lot 1. Also shown is a common area 25 feet wide owned by the Association that is behind these lots. Within the 25 foot wide common area, there is depicted a 10 foot wide easement to Plaintiff Ms. Ammons for access to her Lot 2. There is only one entrance to the 10 foot wide easement which is directly from the street. On both sides of the 10 foot wide easement behind Defendant Leombruno's Lot 1, but in the common area, Defendant has installed concrete planters and concrete flower boxes with flowers in them and planted grass. Within the boundaries of Lot 1 Defendant has also installed the same kind of concrete pavers located within the ten foot wide easement behind Lot 1.
7. Plaintiff introduced photographs showing Plaintiff Ms. Ammons leaning in a mooning position. Plaintiff states that she was removing rocks from the driveway. The Court is not persuaded. Rather the court finds that she was mooning Defendant and his wife as part of her overall continuing harassing behaviors like "giving Defendant the bird"



found at the last hearing on June 17, 2019. The Court finds Plaintiff struck flower boxes in the 25 foot wide common area but outside the 10 foot wide easement set for Plaintiff. This might be overlooked but Plaintiff knew or should have known she hit the concrete flower boxes but she never told Defendant or apologized which points up intentionality and harassment. In at least one other instance Plaintiff blocked the 10 foot wide easement driveway for about 5 to 10 minutes with her Volvo vehicle. Plaintiff has been photographed driving her Volvo vehicle on the concrete pavers located on Lot 1 not within Plaintiff's 10 foot wide easement driveway.

8. On the side of her house facing Defendant Plaintiff has mounted a target appearing to be several feet tall and wide covering a window. The target has a number of bullet holes in it like it had been used for target practice. Plaintiff says she put the target over the window for privacy because she did not have anything else to put there. The Court finds her testimony is not creditworthy. Putting a shooting target in a window for screening in an urban area in a small subdivision is not very unlikely and uncommon. Even more incredible is that the target has been there every day all day for a year now so Plaintiff had plenty of time to change it but for the message of threat and harassment the Court finds she was overtly trying to communicate. Plaintiff and Defendant's wife Fran Leombruno had an unfriendly discussion and Plaintiff, while aggravated, told her she did not have her gun on her, but she did have some knives. Plaintiff does have a permit to use a pistol and does in fact use it for target practice.



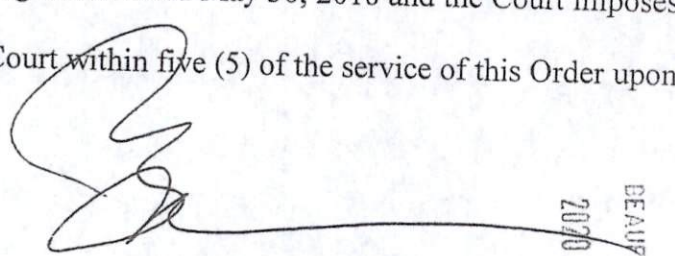
CONCLUSIONS OF LAW

1. Under South Carolina Code Sec. 16-3-1700, et. seq., harassment means "a pattern of intentional, substantial and unreasonable intrusion into the private life of a targeted person". No pun is intended, given the large shooting target in Plaintiff's window targeting Defendant with what this Court concludes as a matter of law a reasonable person would consider a threat and harassment. Plaintiff's threatening target, mooning, blocking the access driveway and damaging the concrete flower planters outside her 10 foot wide driveway easement violate the Mutual Restraining Order dated May 30, 2019. Plaintiff's actions amount to "verbal communication and other interaction" which violate the letter and spirit of the Mutual Restraining Order.
2. Previously at a hearing on June 17, 2019, the Court found Plaintiff had violated the Mutual Restraining Order and entered a penalty of mercy.
3. Under the harassment statute cited above the Court has the authority to impose a maximum penalty of 30 days imprisonment and/or a \$500 fine.

DECISION

Now, therefore, it is Ordered that Plaintiff Linda Hitt Ammons is held in Contempt of Court for violation of the Court's Mutual Restraining Order dated May 30, 2018 and the Court imposes a fine of \$250.00 payable to the Magistrate Court within five (5) of the service of this Order upon her.

AND IT IS SO ORDERED.



Judge Bernard McIntyre
Presiding Magistrate for Beaufort County

Beaufort, South Carolina

January 24, 2020

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Beaufort Magistrate
Judge : LaShonda Green Scott
104 Ribaut Road
Beaufort, SC 29901
Phone:(843) 255-5700 Fax:(843) 255-9427

DUPLICATE

Received From: Ammons, Linda Hitt
113 Lyford Place
Beaufort, SC 29902

Date: 1/ 8/2020
Receipt #: 9895595
Clerk: c07bchapli

Paying for: Self
Transaction Type: Civil Payment

Payment Type: Cash \$250.00
Total Paid: \$250.00

Reference #:
Comment: Contempt of Court Fee
Non-Refundable

You may check the status of your Beaufort case at:
<http://www.sccourts.org/caseSearch/>

Case #	Caption	Previous Balance	Amount Paid	Balance Due
2018OR0710400011	Linda Hitt Ammons vs Ormondo Leombruno	\$250.00	\$250.00	\$0.00



Total Cases: 1	\$250.00	\$250.00	\$0.00
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STATE OF SOUTH CAROLINA
COUNTY OF BEAUFORT

IN THE COURT OF COMMON PLEAS
FOURTEENTH JUDICIAL CIRCUIT
CASE NO: 20180R0710400011

Linda Ammons,

Appellant,

vs.

Ormondo Leombruno,

Respondent.

NOTICE OF APPEAL

Linda Ammons, by and through counsel, hereby appeals the Corrected Order of Contempt of the Honorable Bernard McIntyre dated and filed on January 24, 2020 a copy of which is attached hereto. Counsel received written notice of the entry of the order on February 3, 2020. This appeal is based on errors of law and findings of fact.

Beaufort, South Carolina
March 4, 2020

Respectfully submitted,

/s/ Naki Richardson-Bax

Naki Richardson-Bax

The Bax Law Firm

2 Merchants Lane, Suite 210

Beaufort, SC 29907

Phone: (843) 522-0980

Fax: (843) 379-3115

Naki.baxlaw@gmail.com

ATTORNEY FOR DEFENDANT

STATE OF SOUTH CAROLINA

COUNTY OF BEAUFORT

LINDA AMMONS,

Plaintiff,

vs.

ORMONDO LEOMBRUNO,

Defendant.

IN THE MAGISTRATE'S COURT

CIVILCASE NO.: 2018OR0710400011

TRANSCRIPT OF TRIAL

6/17/19

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BEAUFORT MAGISTRATE COURT
2020 JAN 23 PM 2:03

Case Proceedings in Magistrate Court

This case involves a civil action originally filed by Plaintiff Linda Ammons seeking a restraining order against Defendant Ormondo Leombruno. Plaintiff filed a Summons and Complaint and Motion for a Restraining Order against Defendant with the Magistrate Court on April 27, 2018. The case was scheduled for hearing on May 22, 2018. Both parties were represented by legal counsel, the Plaintiff by Matthew Adkins, Esquire and the Defendant by William B. Harvey, III, Esquire. After the call of the case, the parties informed the Court that they had reached an agreement. That agreement was adopted as the Court Order in the form of a Mutual Retraining Order dated May 22, 2018. The Mutual Restraining Order contained no time limitation or expiration date.

On May 29, 2019, Defendant Ormondo Leombruno filed a Request for Rule to Show Cause. Plaintiff Linda Ammons was properly served and a hearing was scheduled for June 17, 2019. The only issue was whether Plaintiff had violated the Mutual Restraining Order dated May 22, 2019. Both the Plaintiff and Defendant were present. The case was tried by the parties pro se before the Bench without a jury. After receiving oral testimony and a review of the pleadings and documentary evidence, the Court entered judgment against Plaintiff finding her in contempt but withheld imposition of any fine or term of imprisonment. The Court announced its judgment in open court immediately after the hearing on June 17, 2019. The Court's ruling was not reduced to writing until November 14, 2019.

Plaintiff Linda Ammons filed a Notice of Appeal with the Court of Common Pleas on December 20, 2019. The basis for the appeal is not stated in the Notice of appeal but the appellate rules do not require the grounds for an appeal to be set forth in the Notice of Appeal.

2020 JAN 23 PM 2:03
DEAFON...
FILED

Summary of Witnesses' Testimony

A. Witnesses for Defendant Ormondo Leombruno

- 1) Ormondo Leombruno: Defendant/Petitioner Leombruno testified that she owns the premises at 111 Lyford Place, Beaufort, SC. Plaintiff Ammons owns the premises behind him at 113 Lyford Place, Beaufort, SC. Defendant testified that Plaintiff frequently made obscene gestures at him and his wife Fran in person and through the surveillance camera they have for their home by sticking her middle finger up at them. This gesture is generally referred to as giving some one the bird. Photographs of Plaintiff giving Defendant and his household the bird were admitted into evidence. Not only did she give them the bird, he testified she screamed obscenities at him and his wife calling them profane names like b_____ and threatened them. In one instance Plaintiff almost struck Defendant with her Volvo vehicle. Due to Plaintiff making threats to Defendant about guns and knives, Defendant feels he is in danger of life and limb with Plaintiff having placed a gun range target in her window riddled with bullet holes facing Defendant's home. Plaintiff has also trespassed on Defendant's property and damaged property and improvements of the Lyford Place Association maintained by Defendant. Photographs further substantiate Defendant's concerns and that which is now harassing could turn bloody.
- 2) Fran Leombruno: Testified that she is Defendant's wife and ratified essentially everything Defendant testified to. Plaintiff has shouted obscenities at her without provocation and called her b_____ more than once. She is afraid that Plaintiff takes their meekness as weakness as her harassing behaviors continue to escalate. Law enforcement has been called to document concerns and/or restore the peace.

B. Witnesses for Plaintiff Linda Ammons

- 1) Linda Ammons: Plaintiff testified she owns 113 Lyford Place, Beaufort, SC which is physically situated behind Defendant's property. She uses a driveway easement to access her property. There is a common area contiguous to the driveway easement owned by the Property Owners Association and maintained by Defendant. Plaintiff denies trespassing on Defendant's property or damaging improvements in the common area maintained by Defendant or birding Defendant or shouting profanities at Defendant and his wife despite photographs showing behaviors to the contrary.

Trial Summary and Decision

The Mutual Restraining Order dated May 22, 2018 "restrained (the parties) from having any verbal communication or other interaction with the other" and require "at all times conduct themselves in a civil manner." Further, "neither party will enter the private property of the other without express permission" and "any activity within the common area must comply with Lyford Place covenants and restrictions." In effect, any violation of any of the conditions of the Mutual Restraining Order would be tantamount to harassment under S.C. Code sec. 16-3-1700. Harassment is simply a pattern of intentional unreasonable invasion of another's privacy that has

no legitimate purpose and causes the person—a reasonable person, mental and/or emotional distress.

The Court found Defendant Leombruno and his wife to be very credible witnesses about the harassing behaviors of Plaintiff and those harassing behaviors were further documented by photographic evidence. Plaintiff denied everything to the point of being not believable with photographic evidence outright contradicting her denials about not birding Defendants, not screaming at Defendant, not trespassing on Defendant's property, not damaging Lyford Place property maintained by Defendant. There was no credible testimony of provocation by Defendant for Plaintiff's erratic and aggressive and threatening behaviors. Defendant felt threatened and a reasonable person would feel threatened by a gun range target with bullet holes in Plaintiff's window facing Defendant's home after Plaintiff had previously threatened them with guns and knives. Plaintiff almost struck Defendant with her vehicle. The restrictive covenants require the residents not damage the Association's property or improvements.

The Court further found, by the greater weight of the evidence, that Plaintiff's actions constituted "verbal communication and other interaction" in violation of the Mutual Restraining Order and in prohibition against harassment under S. C. Code sec 16-3-1700.

The Court held Plaintiff Ammons in contempt and granted mercy by not imposing a fine or term of imprisonment in this first instance.

Respectfully Submitted,

By: _____
Bernard McIntyre, Magistrate Judge

Beaufort, South Carolina

January 20, 2020

2020 JAN 23 PM 2:03
CLERK OF COURT
JAN 23 2020

STATE OF SOUTH CAROLINA)
2020 MAR 25 PM 12:15)
COUNTY OF BEAUFORT)
JERRI ANN ROSENEAU)
BEAUFORT COUNTY, S.C.)
CLERK OF COURT)
LINDA AMMONS,)
Plaintiff,)
vs.)
ORMONDO LEOMBRUNO,)
Defendant.)

IN THE MAGISTRATE'S COURT
CIVILCASE NO.: 2018OR0710400011

2018CP0702798

2020CP0700581

TRANSCRIPT OF TRIAL

BEAUFORT COUNTY, S.C.
2020 MAR 24 PM 12:33

Case Proceedings in Magistrate Court

This case involves a civil action originally filed by Plaintiff Linda Ammons seeking a restraining order against Defendant Ormondo Leombruno. Plaintiff filed a Summons and Complaint and Motion for a Restraining Order against Defendant with the Magistrate Court on April 27, 2018. The case was scheduled for hearing on May 22, 2018. Both parties were represented by legal counsel, the Plaintiff by Matthew Adkins, Esquire and the Defendant by William B. Harvey, III, Esquire. After the call of the case, the parties informed the Court that they had reached an agreement. That agreement was adopted as the Court Order in the form of a Mutual Restraining Order dated May 22, 2018. The Mutual Restraining Order contained no time limitation or expiration date.

On May 29, 2019, Defendant Ormondo Leombruno filed a Rule to Show Cause. Plaintiff Linda Ammons was properly served and a hearing was scheduled for June 17, 2019. The only issue was whether Plaintiff had violated the Mutual Restraining Order dated May 22, 2019. Both the Plaintiff and Defendant were present. The case was tried by the parties pro se before the Bench without a jury. After receiving oral testimony and a review of the pleadings and documentary evidence, the Court entered judgment against Plaintiff finding her in contempt but withheld imposition of any fine or term of imprisonment. The Court announced its judgment in open court immediately after the hearing on June 17, 2019. The Court's ruling was not reduced to writing until November 14, 2019. Plaintiff Linda Ammons filed a Notice of Appeal of the Magistrate Court's Order dated November 14, 2019 with the Court of Common Pleas on December 20, 2019. The Magistrate Court thereafter filed its Transcript of Trial dated January 20, 2020.

On October 9, 2019 Defendant Ormondo Leombruno filed another Rule to Show Cause. The Rule hearing was held on November 19, 2019. Present and appearing for the Rule hearing were Plaintiff Linda Ammons and her counsel, Naki Richardson-Bax, Esquire. Also present were Defendant Ormondo Leombruno, his counsel, J. Thomas Mikell, Esquire, and Defendant's wife Fran Leombruno. Prior to the hearing the Court heard Plaintiff Ammons' Motion for Joinder and

Defendant Leombruno's Motion to View the Site. After argument, the Court ruled in open court, denying the Motion to Joinder and granting the Motion to View the Site. The ruling was subsequently reduced to writing in an Order dated [sic November] December 13, 2019 and court stamped January 3, 2020.

After hearing on the merits on November 19, 2019, the Court entered an Order of Contempt dated December 16, 2019 finding Plaintiff Ammons in contempt and imposing a fine of \$250.00 payable within five (5) of the service of the Order. A Corrected Order of Contempt was entered on January 24, 2020 which corrected the Court's earlier Order by inserting a sentence on page 3, paragraph 6, to read: "Defendant has also installed concrete pavers within the 10 foot wide easement behind Lot 1."

Defendant filed a Motion for Reconsideration on January 3, 2020 to clarify the language in the last sentence in paragraph 6 of the Order dated December 16, 2019. After hearing the Motion on January 23, 2020, the Court amended its Order to clarify paragraph 6 by rewriting paragraph 6 of its earlier Order to read as set forth in its Rule 60 Order Correcting Order of Contempt dated January 24, 2020.

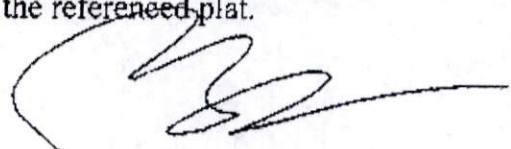
Plaintiff states she received a copy of the Court's Rule 60 Order on February 3, 2020 and filed her Notice of Appeal with the Magistrate Court on March 9, 2020. Plaintiff's Notice of Appeal does not "contain a statement of the grounds for appeal" as required by South Carolina Magistrate Court Rule 18(a). The sitting Magistrate is unsure of the ground(s) for appeal.

Summary of Witnesses' Testimony

A. Witnesses for Defendant Ormondo Leombruno

Defendant/Petitioner Leombruno testified that he and his wife Fran own the premises at 111 Lyford Place, Beaufort, SC. Plaintiff Ammons owns the premises behind him at 113 Lyford Place, Beaufort, SC. Defendant introduced into evidence a deed to Lyford Place Community Association (Record Book 3288 at page 2224) and a plat (Plat Book 115 at Page 98) which show Lot 1 owned by Leombruno and Lot 2 owned by Ammons behind Lot 1. Also shown on the plat is a common area 25 feet wide owned by the Association that is behind these two lots. Within the 25-foot wide common area, there is depicted a 10-foot wide easement to Ammons for access to her Lot 2. There is only one entrance to the 10-foot wide easement directly from the street. Defendant testified that on both sides of the 10-foot wide easement behind Leombruno's Lot 1, but in the common area, he and his wife Fran installed concrete planters and concrete flower boxes with flowers in them and planted grass. Also within the boundaries of Lot 1, Leombruno has installed concrete pavers within the 10-foot wide easement behind his Lot 1.

The Court and parties along with their counsel went to the site and viewed the site in person. The premises were just as described in Defendant's testimony and the referenced plat.



Introduced into evidence were photos by Leombruno showing Ammons in a leaning position. In presenting her case Ammons stated she was picking up rocks from the driveway. The Court observed Ammons and her demeanor and did not find her credible. Ammons' behavior of mooning appears to be a part of an overall pattern of harassing Leombruno which has included "giving defendant the bird". Leombruno also testified that Ammons damaged flower boxes in the 25-foot wide common area with her vehicle. Ammons has never apologized, denying she ever committed the behavior despite photographic and other evidence to the contrary. Leombruno also testified and produced photos of Ammons blocking the 10-foot wide easement driveway with her Volvo vehicle and driving on the concrete pavers on Lot 1.

Leombruno testified that Ammons mounted a target several feet in height and width covering a window in her home. The target has bullet holes in it as if used for target practice. Ammons testified in rebuttal she placed the target in the window for privacy because she had nothing else to put there. That might have been the case if it had remained there for a few days or weeks but unlikely and uncommon and unbelievable with it remaining there every day for a whole year. Defendant's wife Fran testified that she and Ammons had a not-so friendly discussion which Ammons ended by expressing she did not have her gun on her but she did have some knives. Leombruno testified Ammons admits she has a permit for a pistol and uses it for target practice. The bullet-riddled target in her window was intended to be menacing and threatening.

Leombruno's wife Fran further testified that Ammons rings their doorbell and screams, trespasses onto their property and has raised a pipe wrench at her. She and her husband are afraid of Ammons and are at a wit's end about what to do.

B. Witnesses for Plaintiff Linda Ammons

Plaintiff Respondent Linda Ammons testified as stated above. She also testified that she has lived at Lot 2, 113 Lyford Place for 14 years. She claims she was not mooning the Leombrunos but removing rocks. There does not appear to be any rocks in the photo where she is posturing "mooning" the Leombrunos. Ammons simply denies everything despite documentary evidence, mostly photographic, showing otherwise.

Trial Summary and Decision

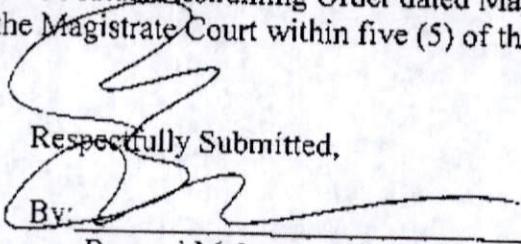
The Court found Defendant Leombruno and his wife to be very credible witnesses about the harassing behaviors of Plaintiff Ammons and those harassing behaviors were further documented by photographic evidence. Under South Carolina Code Sec. 16-3-1700, et. seq., Plaintiff Ammons' behaviors constitute "a pattern of intentional, substantial and unreasonable intrusion into the private life of a targeted person". Her threatening bullet-riddled target, mooning, blocking the access driveway and damaging the concrete flower planters outside her 10 foot wide driveway easement also violate the Mutual Restraining Order dated May 30, 2019. Her actions

amount to "verbal communication and other interaction" which violate the letter and spirit of the Mutual Restraining Order and the State's harassment statute.

Previously at a hearing on June 17, 2019, the Court found Plaintiff had violated the Mutual Restraining Order and entered a penalty of mercy.

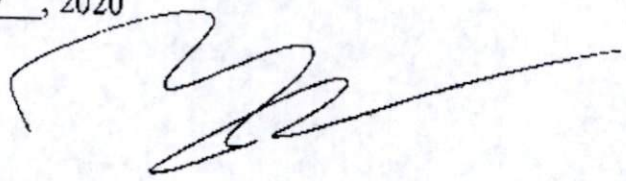
Under the harassment statute cited above the Court has the authority to impose a maximum penalty of 30 days imprisonment and/or a \$500 fine. The Court held Plaintiff Ammons in Contempt of Court for violation of the Court's Mutual Restraining Order dated May 30, 2018 and imposed a fine of \$250.00 payable to the Magistrate Court within five (5) of the service of the Order upon her.

Respectfully Submitted,

By: 

Bernard McIntyre, Magistrate Judge

Beaufort, South Carolina

March 24, 2020 

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	FOURTEENTH JUDICIAL CIRCUIT
	)	CASE NO: 2019-CP-07-02798
	)	AND
COUNTY OF BEAUFORT	)	CASE NO: 2020-CP-07-00581

LINDA AMMONS,	)	
	)	
Plaintiff/Appellant,	)	NOTICE OF MOTION
	)	AND
Vs.	)	MOTION FOR SUMMARY JUDGMENT
	)	
ORMONDO LEOMBRUNO,	)	
	)	
Defendant/Respondent.	)	

TO THE PLAINTIFF:
c/o W. TREY MERCK

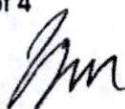
PLEASE TAKE NOTICE that the Defendant will move the Court at such date, time, and place determined by the Court for an Order of Summary Judgment pursuant to Rule 56, SCRCP, upon the ground that the Plaintiff has failed to follow the statutes and Rules of Court and that failure has denied the Defendant Due Process of Law.

INTRODUCTION

This matter is before the Court upon appeals by the Plaintiff of two decisions by the Magistrate's Court of Beaufort County, SC (2018-OR-07-10400011).

A Joint Restraining Order was issued against both parties on May 30, 2018. The Defendant thereafter filed a Rule To Show Cause for Violation of the Order.

A trial was conducted on June 17, 2019 in which an oral Order was issued holding the Plaintiff in Contempt of the Restraining Order previously issued with a written Order of Contempt subsequently being issued on November 14, 2019. This Order was appealed and issued Calendar # 2019-CP-07-02798.



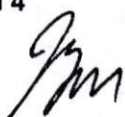
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Subsequently, a second Rule To Show Cause was brought by the Defendant. A second trial was conducted on November 19, 2019 with an Order of Contempt being issued December 16, 2019 (which was amended again) holding the Plaintiff in Contempt and imposing a fine of \$250. This second Order was appealed and issued Calendar # 2020-CP-07-00581.

The Magistrate has filed a Transcript of both Trials dated March 24, 2020 pursuant to S.C. Code Section 18-7-60.

PRESENTATION

1. S.C. Code Sections 18-7-20, 18-7-30 and Magistrate's Court Rule 18 all provide that the Notice of Appeal from a Magistrate's Court decision must state the grounds for the appeal and it must state "... in what particulars (the Appellant) claims the judgment should have been more favorable to him...".
2. As stated in the Transcript provided by the Magistrate, neither of the Notices of Appeal from the hearings in this matter state a "ground for the appeal" so the Defendant is not able to respond in any appropriate manner to the Notices of Appeal. Neither is the Court able to respond to the Notices. This is not to be a trial de novo but only on specific grounds set forth in the Notice of Appeal.
3. The Defendant agrees with the Statement of the Proceedings and the Summary of the Testimony of the parties and witnesses set forth in the Transcript of the Magistrate.
4. As to the Trial Summary and Decision set forth in the Transcript of the Magistrate, the Defendant calls the Court's attention to these cogent statements:
 - A. As supported by the credibility of the witnesses and the photographic evidence, the Magistrate found the behavior of the Plaintiff to constitute "... a pattern of intentional substantial and unreasonable intrusion into the private life of a targeted person..." in violation of S.C. Code Section 16-3-1700 et. seq.
 - B. The behaviors of the Plaintiff of (a) having a threatening bullet-riddled target, (b) mooning, (c) blocking the access driveway, and (d) damaging the concrete flower planters outside of her 10-foot-wide driveway easement, all to violate the Restraining Order dated May 30, 2018.
 - C. Pursuant to the Harassment Statute (S.C. Code 16-3-1700 et. seq.) the Court held the Plaintiff in violation of the Restraining ORDER of May 30,

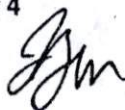



2018 in both trials and (a) held her in contempt in both instances, and (b) fined her \$250 at the second trial.

5. It is an elementary principle of Due Process of Law that a party has the right to know of the wrongful acts that he/she has committed or of the errors made by a Court in their proceeding. The failure of the Plaintiff in this case to identify or state any grounds for her appeal for such an inordinately long time period constitutes (a) a denial of Due Process to the Defendant, (b) Laches by the Plaintiff, (c) an admission that there are no grounds for the appeal, (d) an acquiescence that there are no grounds for the appeal, and (e) a Waiver of the right to appeal.

CONCLUSIONS

1. In view of the Plaintiff not designating any ground for an appeal in either of the appeals for twenty-two months in the first appeal (6/17/2019 to 4/15/2021) and for seventeen months in the second appeal (11/19/2019 to 4/15/2021), the Plaintiff has not complied with the statute nor the Rules of Court controlling appeals and both appeals should be dismissed.
2. The Findings of Fact of the Magistrate in both cases should be upheld.
3. This Court should issue an Order which confirms these specific findings of the Magistrate:
 - A. The behaviors of the Plaintiff of (a) having a threatening bullet-riddled target, (b) mooning, (c) blocking the access driveway, and (d) damaging the concrete flower planters outside of her 10-foot-wide driveway easement, all to violate the Restraining Order dated May 30, 2018.
 - B. The behavior of the Plaintiff constituted a pattern of intentional, substantial, and unreasonable intrusion into the private life of a targeted person in violation of S.C. Code Section 16-3-1700 et. seq.
 - C. The decisions of the Magistrate to (a) hold the Plaintiff in Contempt twice and (2) to fine the Plaintiff \$250 pursuant to the S.C. Harassment Statute (S.C. Code 16-3-1700 et. seq.) to be confirmed.
4. The Court should conclude that the failure of the Plaintiff to follow the statutes and Court Rules stated above is a denial of the Right of Due Process to the Defendant as stated above.

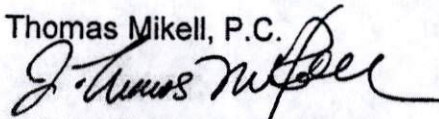


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Submitted By:

April 14, 2021

J. Thomas Mikell, P.C.



By: /s/ J. Thomas Mikell

S.C. Bar No. 3967

Attorney for the Defendant

P.O. Box 1727

Beaufort, SC 29901

843-524-2110

tom@mikelllaw.com



STATE OF SOUTH CAROLINA

IN THE COURT OF COMMON PLEAS

COUNTY OF BEAUFORT

C/A No.: 2019-CP-07-02798 &
2020-CP-07-00581

Linda Ammons,

Appellant(s),

STATEMENT OF THE GROUNDS
FOR THE APPEAL

- vs -

Ormondo Leombruno,

Respondent(s).

Magistrate's Court Case Number:
20180R0710400011

Appellant, Linda Ammons, by and through her undersigned counsel, as a supplement to her Notice of Appeal filed in this action, hereby states the grounds for the appeal as follows:

1. The Mutual Restraining Order that the Contempt Order was issued under had expired according to the laws of the State of South Carolina. This Order was only valid for a period of one (1) year from the date it was issued, and no petition to extend the Order had been filed.

2. The Magistrate's Ruling that actions were basically equivalent to words, and held Plaintiff in contempt for (certain) actions, was not proper and should be reversed.

Therefore, having stated the grounds for the appeal hereunder, the undersigned attorney for Appellant hereby moves for a reversal of the Order issued below, with an award of attorney's fees and costs.

s/ W. Trey Merck

W. Trey Merck, Attorney-at-Law

SC Bar No. 13641

Post Office Box 1265

Folly Beach, South Carolina 29439

Phone: (843) 925-2175; Fax: (843) 305-3324

email: trey@treymercklaw.com

Attorney for Appellant, Linda Ammons

April 22, 2021

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	FOURTEENTH JUDICIAL CIRCUIT
	)	CA: 2019-CP-07-02798
	)	AND
COUNTY OF BEAUFORT	)	CA: 2020-CP-07-00581

LINDA AMMONS,	)	
	)	
Plaintiff/Appellant,	)	
	)	
VS.	)	RETURN BY RESPONDENT
	)	
ORMONDO LEOMBRUNO,	)	
Defendant/Respondent.	)	

The Respondent files this Return to the Defenses raised by the Appellant to (1) the Motion for Summary Judgment and (2) the grounds for the two Appeals.

FACTS

After a trial (without attorneys) on June 17, 2019 with an Order of Contempt being issued and a trial on November 19, 2019 with an Order of Contempt being issued, the Appellant filed Notices of Appeal without stating any ground for an appeal. After twenty-two months with no ground for the appeals being filed, the Respondent filed a Motion for Summary Judgment. Only then did the Appellant submit a ground for the appeals. The ground is that the trials were conducted beyond the time period set forth in SC Code Section 16-3-1780.

RETURN

The position of the Appellant to rely on SC Code Section 16-3-1780 is defective for these reasons:

1. There is no evidence in the record of either trial nor in the Transcript of Trial of the two trials provided by the Trial Judge of any Motion or Request by the Appellant not to conduct either of the trials based on the one-year statute.

Preservation of Issues for Trial

There are four basic requirements to preserving issues at trial for appellate review. The issue to be preserved must have been:

- A. Raised to and ruled upon by the trial court.
- B. Raised by the appellant.
- C. Raised in a timely manner.
- D. Raised to the Trial Court with sufficient specificity.

Cited in "Appellant Practice in South Carolina" by Jean Hoefer Toal, Shahin Vafai, and Robert A. Muckenfuss; Second Edition (1999); Chapter 3 – Section III (Page 66).

Based on the four requirements for an appeal to take place, the Appellant fails all four of the requirements set forth above by not raising the one-year issue at either trial.

2. The Order that places the Joint Restraining Order of May 22, 2018 in place is not an Order arising from the statute. That Order is the confirmation or adoption by the Court of an agreement, i.e., a contract entered into by the parties to have a Mutual Restraining Order. The Court Order only confirms the contract entered into between the parties. See paragraph one of the Transcript of Trial by the Magistrate.

The Contract of a Mutual Restraining Order between the parties was without any restrictions nor did it state that the parties agreed to the content of the statute. As stated by the Magistrate in the Transcript of Trial, the contract contained "... no time limitation or expiration date ...".

Our Courts have long held common sense and good faith to be the leading touchstones of the construction of contracts, and contracts are to be so construed as to avoid an absurd result. *Kuznik -vs- Bees Ferry Associates*, 342 SC 579, 538 SE2d 15 (SC App Ct 2000).

To allow a party to a contract thereafter adopted by a Mutual Restraining Order to subsequently attempt to avoid that contract based on a one-year limitation that was not a part of the original contract will be reaching an absurd result and avoiding the common sense and good faith by which both parties entered into the contract.

CONCLUSIONS

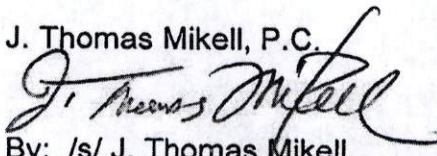
1. The ground of applying the one-year limitation as an excuse for the failure to file grounds for an appeal should be dismissed for the two reasons set forth above.
2. The two decisions of the Magistrate's Court to hold the Appellant in Contempt and that the Appellant violated SC Code Sections 16-3-1700 et. seq. as harassment should be confirmed.
3. In the alternative, the Court has more than ample and reasonable facts in the Record and from the Transcript of Trials of the Magistrate to confirm the findings of the Magistrate and dismiss both appeals.

In an action at law, on appeal of a case tried without a jury, the findings of fact of the Judge will not be disturbed upon appeal unless found to be without evidence which reasonably supports the Judge's findings. The Judge's findings are equivalent to a jury's findings in a law action. *Kuznik -vs- Bees Ferry Associates*, 342 SC 579, 538 SE2d 15 (SC App Ct 2000).

July 7, 2021.

Submitted by:

J. Thomas Mikell, P.C.



By: /s/ J. Thomas Mikell

Attorney for the Defendant

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	FOURTEENTH JUDICIAL CIRCUIT
	)	CA: 2019-CP-07-02798
	)	AND
COUNTY OF BEAUFORT	)	CA: 2020-CP-07-00581

LINDA AMMONS,	)	
	)	
Plaintiff/Appellant,	)	
	)	SUPPLEMENTAL
VS.	)	RETURN BY RESPONDENT
	)	
ORMONDO LEOMBRUNO,	)	
Defendant/Respondent.	)	

The Respondent (Leombruno) calls these additional facts and legal principles to the attention of the Court.

FACTS

1. A Mutual Restraining Order approved by the Court was issued May 30, 2018 without a statement of a term of the Order.
2. The Appellant appeared at, testified in, and participated in a trial on June 19, 2019. No objection to the issuance of the Mutual Restraining Order was made.
3. The Appellant appeared at, testified in, and participated in a trial with Counsel on November 14, 2019. No objection to the issuance of the Mutual Restraining Order was made.
4. The Magistrate held the Appellant in contempt of the Mutual Restraining Order after the trial of June 19, 2019.
5. The Magistrate held the Appellant in contempt of the Mutual Restraining Order after the trial of November 14, 2019 and fined her \$250.

6. The Appellant appealed both Magistrate Court decisions but did not state any ground for the appeals.

7. After some twenty-two months of neither the Respondent nor the Court having knowledge of the ground for the Appeals, the Respondent filed a Motion for Summary Judgment to dismiss the appeal on the grounds of (a) failure of the Appellant to comply with the Rule to state the appeal grounds, and (b) laches, waiver, and acquiescence.

8. Finally, only after the filing of the Motion for Summary Judgment, the Appellant then claimed for the first time that the Trial Court did not have personal jurisdiction over her for the reason that the Mutual Restraining Order of May 30, 2018 had expired one year from the date of May 30, 2018.

LAW

1. A party may lose the right to object to the jurisdiction of the Court by consenting to an adjudication of the controversy or by failing to raise the objection in due time. *Section 96; 27A AM JUR 2d Equity.*

2. Acquiescence in a Judgment cuts off the right of appellant review. It becomes a waiver and estoppel to an appeal. *Section 618; 5 AM JUR 2d Appellant Review.*

3. A party who has the option of appealing on Order and fails to do so and takes part in the new trial is precluded from the judgment rendered in the new trial. *Section 620; 5 AM JUR 2d Appellant Review.*

4. Personal jurisdiction may be waived.

Although a court commonly obtains jurisdiction by the service of a summons and complaint, it may also obtain personal jurisdiction if the (party) makes a voluntary appearance. Voluntary appearance by a (party) is equivalent to personal service. A (party) may waive any complaints he may have regarding personal jurisdiction by failing to object to the lack of personal jurisdiction and by appearing to defend his case.

The failure to object resulting in a waiver of personal jurisdiction applies equally in constructive contempt cases.

Constructive contempt is contempt that occurs outside the presence of the Court. *Ex Parte Cannon* _____ SC _____; 685 SE2d 814 (SC Ct. App. 2009).

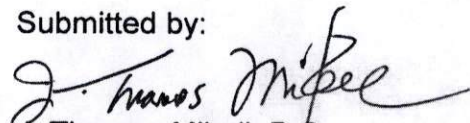
5. There is another similar and cogent case entitled *State v. Brown* 358 SC 382, 596 SE2d 39 (SC 2009). Brown was tried in Magistrate's Court and found guilty, twice. Brown was given a fine or 40 days in jail. He served the time. Brown appealed. The Circuit Court remanded the case to another county and a third trial took place with a third conviction. Brown then raised on appeal subject matter jurisdiction claiming there was a defect in the notice of appeal provisions. The Court of Appeals agreed with Brown accepting his claim of lack of subject matter jurisdiction. The Supreme Court Held --- the failure of a party to comply with the procedural requirements for perfecting an appeal may deprive the Court of "appellate" jurisdiction over the case, but it does not affect the Court's subject matter jurisdiction. The Supreme Court additionally held that Brown failed to comply with the procedural requirements for an appeal, thus, they accepted the verdict of the Magistrate's Court and disregarded the claim of lack of subject matter jurisdiction.

CONCLUSIONS

1. Ammons (a) appeared at two trials, one without Counsel and one with Counsel; (b) participated in both trials; and (c) testified in both trials.
2. Ammons did not make any objection at either trial to lack of personal jurisdiction, but instead participated in the trials.
3. Ammons filed a Notice of Appeal but did not comply with the Rules of Court as to the procedure to file an appeal by not stating any ground for the appeal until forced to do so some twenty-two months later by a Motion for Summary Judgment.
4. Ammons cannot impose the issue of lack of personal jurisdiction because she has waived any such right and is estopped from claiming such right under the facts of this case.

July 14, 2021.

Submitted by:


J. Thomas Mikell, P.C.

By: /s/ J. Thomas Mikell
Attorney for the Respondent

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
COUNTY OF BEAUFORT	)	
Linda Ammons,	)	C/A No.: 2019-CP-07-02798 &
	)	2020-CP-07-00581
Appellant(s),	)	
- vs -	)	MEMORANDUM IN SUPPORT
	)	OF THE APPEAL
Ormondo Leombruno,	)	
Respondent(s).	)	Magistrate's Court Case Number:
	)	20180R0710400011

Appellant, Linda Ammons, by and through her undersigned counsel, files this *Memorandum in Support of Appeal*, as follows:

FACTS RELEVANT TO THIS APPEAL

An action was filed in the Magistrate's Court by Appellant (originally as Plaintiff), seeking a temporary restraining against Respondent for harassment/stalking. At the hearing, the parties agreed to a Mutual Restraining Order. Later, Mr. Leombruno brought two (2) contempt actions against Ms. Ammons for violations of the Mutual Restraining Order, and the Magistrate's Court found her in contempt on both.

SOLE ARGUMENT

The Mutual Restraining Order that the Contempt Order was issued under had expired according to the laws of the State of South Carolina. This Order was only valid for a period of one (1) year from the date it was issued, and no petition to extend the Order was filed.

This matter began by Plaintiff filing a *Complaint and Motion for A Restraining Order* in the Magistrate's Court for harassment and stalking by Defendant. This action was commenced, according to the complaint, pursuant to S.C. Code Ann. Section 16-3-1700. A hearing was set, and the parties appeared. The hearing ended with the parties entering into, and the Court approving, a *Mutual*

Restraining Order. The *Mutual Restraining Order* was signed on May 22, 2018 and filed on May 30, 2018.

S.C. Code of Laws Ann. Section 16-3-1750 sets out the requirements to file such an action, and Section 16-3-1780 clearly specifies the duration of orders issued under this section are one (1) year, as follows:

SECTION 16-3-1780. Expiration of temporary restraining orders and restraining orders; extensions and modifications.

(A) A temporary restraining order remains in effect until the hearing on the Rule to Show Cause why the order should not be extended for the full one-year period. The temporary restraining order must be for a fixed period in accordance with subsection (B) if the court finds the defendant in default at the hearing.

(B) In cases not provided for in subsection (A), a restraining order must be for a fixed period not to exceed one year but may be extended by court order on a motion by the plaintiff, showing good cause, with notice to the defendant. The defendant is entitled to a hearing on the extension of an order issued pursuant to this subsection within thirty days of the date upon which the order will expire.

(C) Notwithstanding subsection (B), the provisions included in a restraining order granting relief pursuant to Section 16-3-1770 dissolve one year following the issuance of the order unless, prior to the expiration of this period, the court has charged the defendant with the crime of harassment in the first or second degree or stalking and has scheduled a date for trial on the charge. If the trial has been scheduled, relief granted pursuant to Section 16-3-1770 remains in effect beyond the one-year period only until the conclusion of the trial.

(D) The court may modify the terms of an order issued pursuant to this section.

HISTORY: 1995 Act No. 94, Section 1; 2005 Act No. 106, Section 7, eff January 1, 2006.

The First Action - Case Number 2019-CP-07-02798:

Defendant filed his Rule to Show Cause Petition on May 29, 2019. This action was filed after the Order had expired because it is clear from the above statute that it is the date of the issuance of the Order that is used to determine the one (1) year period. However, even if the filing date of the order is used, the action still fails because Defendant filed a Rule to Show Cause only; he did not file an action to

extend the Temporary Restraining Order. By the time the hearing took place on June 17, 2019, the Order had expired, and the Court did not have authority to issue the Contempt Order.

The Second Action - Case Number 2020-CP-07-00581:

The second action was clearly filed after the one (1) year period as it was filed on October 9, 2019, so the filing and the Order were both improper on the 2020 case.

The magistrate's courts do not generally have jurisdiction over permanent restraining orders. See S.C. Code of Laws Section 16-3-1900 et seq. Only the circuit courts and family courts have such jurisdiction. *Id.*

Therefore, having stated the grounds for the appeal hereunder, the undersigned attorney for Appellant hereby moves for a reversal of the Order issued below, with an award of attorney's fees and costs.

s/ W. Trey Merck

W. Trey Merck, Attorney-at-Law
SC Bar No. 13641
Post Office Box 1265
Folly Beach, South Carolina 29439
Phone: (843) 925-2175; Fax: (843) 305-3324
email: trey@treymercklaw.com

Attorney for Appellant, Linda Ammons

July 6, 2021

Note: The second ground for appeal has been abandoned, which was previously stated as follows:
"The Magistrate's Ruling that actions were basically equivalent to words, and held Plaintiff in contempt for (certain) actions, was not proper and should be reversed."

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Jan 04 2022

STATE OF SOUTH CAROLINA **SC Court of Appeals** IN THE COURT OF COMMON PLEAS

COUNTY OF BEAUFORT

C/A No.: 2020-CP-07-00581

Linda Ammons,

Appellant(s),

- vs -

Ormondo Leombruno,

Respondent(s).

**ORDER IN FAVOR OF THE APPEAL
AND REVERSING THE CONTEMPT
ORDER OF THE MAGISTRATE'S COURT**

Magistrate's Court Case Number:
20180R0710400011

A Hearing was held before me on July 9, 2021 at 11:00am via Webex. Present for Appellant was her attorney, W. Trey Merck, and present for Respondent was Tom Mikell. After hearing arguments of counsel and considering the evidence in the case, I make the following Findings of Fact and Conclusions of Law:

A *Complaint and Motion for A Restraining Order* was filed in the Magistrate's Court pursuant to S.C. Code Ann. Section 16-3-1700 by Appellant (originally as Plaintiff), seeking a temporary restraining against Respondent for harassment/stalking. At the hearing, the parties agreed to a *Mutual Restraining Order* which was signed on May 22, 2018 and filed on May 30, 2018. Later, Mr. Leombruno brought a contempt action against Ms. Ammons for violations of the *Mutual Restraining Order*, and the Magistrate's Court found her in contempt.

Orders issued by the Magistrate's Court pursuant to S.C. Code of Laws Ann. Section 16-3-1750 and Section 1780 have a duration of one (1) year. Defendant filed his Rule to Show Cause Petition on October 9, 2019. At the time the hearing took place, the Order had expired, and the Court did not have authority to issue the Contempt Order.

The magistrate's courts do not generally have jurisdiction over permanent restraining orders, with some very narrow exceptions not involved herein. See S.C. Code of Laws Section 16-3-1900 et seq. Only the circuit courts and family courts have such jurisdiction. *Id.*

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57

Mr. Merck raised the issue, for the first time on appeal, that the *Mutual Restraining Order* was null and void after one (1) year, therefore the Magistrate's Court did not have jurisdiction to hold Appellant in contempt for a violation of this Order.

It is true that subject matter jurisdiction may be raised at any time, including for the first time on appeal. *Carter v. State*, 329 S.C. 355, 495 S.E.2d 773 (1998); *State v. Richburg*, 304 S.C. 162, 403 S.E.2d 315 (1991)..." *State v. Passmore*, 611 S.E.2d 273, 363 S.C. 568 (S.C. 2005). Mr. Merck does have a valid ground for reversal on appeal.

This is not a ruling on any finding of fact of the Magistrate.

THEREFORE, IT IS HEREBY ORDERED AS FOLLOWS:

The Order of the Magistrate's Court holding Appellant in contempt is hereby reversed on jurisdictional grounds.

IT IS SO ORDERED.

Marvin H. Dukes, III
Master-in-Equity for Beaufort County

September ____, 2021

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	FOURTEENTH JUDICIAL CIRCUIT
COUNTY OF BEAUFORT	)	CASE NO: 2020-CP-07-00581

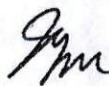
LINDA AMMONS,	)	
	)	
Plaintiff/Appellant,	)	NOTICE OF MOTION
	)	AND
Vs.	)	MOTION FOR RECONSIDERATION
	)	AND AMENDMENT
ORMONDO LEOMBRUNO,	)	
	)	
Defendant/Respondent.	)	

TO THE APPELLANT:
c/o W. TREY MERCK, ATTORNEY

PLEASE TAKE NOTICE that the Defendant/Respondent will move the Court at such date, time, and place determined by the Court pursuant to Rule 59(E), SCRCP, for the Court to reconsider and amend the errors of law rendered in the Order of October 21, 2021.

The grounds upon which this Motion is made are these, to wit:

1. The Order does not mention nor rule upon the Motion For Summary Judgment filed by the Defendant/Respondent.
2. The Order does not mention nor rule upon the legal defense of Waiver raised by the Defendant/Respondent.
3. The Order does not mention nor rule upon the legal defense of Laches raised by the Defendant/Respondent.
4. The Order does not mention nor rule upon the legal defense of Acquiescence raised by the Defendant/Respondent.

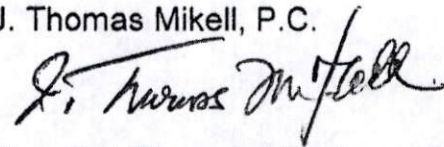



5. The Order does not mention nor rule upon the failure of the Plaintiff/Appellant to follow the Rules of this Court (Rule 18 SC RMC).
6. The Order does not mention nor rule upon the failure of the Plaintiff/Appellant to comply with the statutes of the legislature (Code Sections 18-7-20 and 18-7-30).
7. The Order does not mention nor rule upon the failure of the Plaintiff/Appellant to follow the four basic requirements to preserve an appeal set forth in the SC Bar Book *Appellant Practice in South Carolina*.
8. The Order does not mention nor rule upon the previous decision of the Supreme Court of South Carolina in the case of State v. Brown 358 SC 382, 596 SE2d 39(SC 2009) which held that Mr. Brown had failed to comply with the procedural requirements for an appeal, thus, the decision of the Magistrate's Court was accepted and the claim by Mr. Brown of the lack of subject matter jurisdiction was disregarded.

Respectfully Submitted

October 27, 2021

J. Thomas Mikell, P.C.



By: /s/ J. Thomas Mikell

S.C. Bar No. 3967

Attorney for the
Defendant/Respondent

P.O. Box 1727

Beaufort, SC 29901

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60

STATE OF SOUTH CAROLINA
COUNTY OF BEAUFORT
IN THE COURT OF COMMON PLEAS

FORM 4

JUDGMENT IN A CIVIL CASE

CASE NO. 2020 CP-07-00581

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Jan 04 2022

Linda Ammons

Ormondo Leombruno

PLAINTIFF(S)

DEFENDANT(S)

SC Court of Appeals

Submitted by: BEAUFORT COUNTY MASTER IN EQUITY

Attorney for : ☐ Plaintiff ☐ Defendant
or
☐ Self-Represented Litigant

DISPOSITION TYPE (CHECK ONE)

- ☐ **JURY VERDICT.** This action came before the court for a trial by jury. The issues have been tried and a verdict rendered.
- ☒ **DECISION BY THE COURT.** This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered.
- ☐ **ACTION DISMISSED (CHECK REASON):** ☐ Rule 12(b), SCRPC; ☐ Rule 41(a), SCRPC (Vol. Nonsuit); ☐ Rule 43(k), SCRPC (Settled); ☐ Other
- ☐ **ACTION STRICKEN (CHECK REASON):** ☐ Rule 40(j), SCRPC; ☐ Bankruptcy; ☐ Binding arbitration, subject to right to restore to confirm, vacate or modify arbitration award; ☐ Other
- ☐ **DISPOSITION OF APPEAL TO THE CIRCUIT COURT (CHECK APPLICABLE BOX):**
☐ Affirmed; ☐ Reversed; ☐ Remanded; ☐ Other

NOTE: ATTORNEYS ARE RESPONSIBLE FOR NOTIFYING LOWER COURT, TRIBUNAL, OR ADMINISTRATIVE AGENCY OF THE CIRCUIT COURT RULING IN THIS APPEAL.

IT IS ORDERED AND ADJUDGED: ☐ See attached order (formal order to follow) ☒ Statement of Judgment by the Court:

This came before me November 23rd, 2021 on Ormondo Leombruno's Motion for Reconsideration and Amendment; filed October 27th, 2021. Attorney Trey Merck appeared for Linda Ammons and attorney Tom Mikell appeared for Ormondo Leombruno. After hearing from parties and review of the file I hereby respectfully deny the motion.

ORDER INFORMATION

This order ☒ ends ☐ does not end the case.
Additional Information for the Clerk : _____

INFORMATION FOR THE PUBLIC INDEX

Complete this section below when the judgment affects title to real or personal property or if any amount should be enrolled. If there is no judgment information, indicate "N/A" in one of the boxes below.

Judgment in Favor of (List name(s) below)	Judgment Against (List name(s) below)	Judgment Amount To be Enrolled (List amount(s) below)
		\$
		\$
		\$

If applicable, describe the property, including tax map information and address, referenced in the order:

61

The judgment information above has been provided by the submitting party. Disputes concerning the amounts contained in this form may be addressed by way of motion pursuant to the SC Rules of Civil Procedure. Amounts to be computed such as interest or additional taxable costs not available at the time the form and final order are submitted to the judge may be provided to the clerk. **Note: Title abstractors and researchers should refer to the official court order for judgment details.**

Circuit Court Judge

3069

Judge Code

Date

For Clerk of Court Office Use Only

This judgment was entered on the _____ day of _____, 20____ and a copy mailed first class or placed in the appropriate attorney's box on this _____ day of _____, 20____ to attorneys of record or to parties (when appearing pro se) as follows:

Trey Weston Merck

J. Thomas Mikell

ATTORNEY(S) FOR THE PLAINTIFF(S)

ATTORNEY(S) FOR THE DEFENDANT(S)

CLERK OF COURT

Court Reporter: N/A



Beaufort Common Pleas

Case Caption: Linda Ammons VS Ormondo Leombruno
Case Number: 2020CP0700581
Type: Order/Other

So Ordered:

s/Marvin H. Dukes III #3069

Electronically signed on 2021-12-13 16:49:11 page 3 of 3

63

I certify that this Record on Appeal contains only matter that is relevant to this appeal.

February 8, 2023

J. Thomas Mikell, P.C.

By: 

J. Thomas Mikell
P.O. Box 1727
Beaufort, SC 29901

tom@mikelllaw.com
843-524-2110

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SC Court of Appeals